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7 Attorneys for Plaintiff
MONSTER CABLE PRODUCTS, INC.

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12	MONSTER CABLE PRODUCTS, INC., a)	Case No. C 3:07-cv-03272-SI
13	California corporation,)	
14	Plaintiff,)	PROOF OF SERVICE FOR PLAINTIFF'S
15	vs.)	SEPARATE CASE MANAGEMENT
16)	CONFERENCE STATEMENT AND
17)	[PROPOSED ORDER]
18	MONSTER DADDY, LLC, a)	
19	corporation, and DOES ONE through)	
20	TWENTY inclusive,)	
21	Defendant.)	

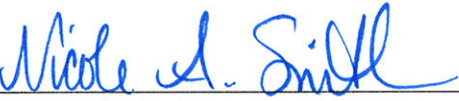
22 No counsel has yet appeared in this case, consequently, the Separate Case Management
23 Conference Statement, attached as Exhibit A, was sent to the following addresses:

24 Monster Daddy, LLC
25 P.O. Box 26855
26 Greenville, SC 29616
27 Scott Creasman, Esq.
28 Taylor, Busch, Slipakoff & Duma, LLP
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339

1 Please note that Scott Creasman of Taylor Busch is former counsel of this case and a
2 courtesy copy is being sent to him until we are aware of new counsel retained by Defendants,
3 Monster Daddy.
4

5 Date: October 26, 2007

LARIVIERE, GRUBMAN & PAYNE, LLP

6
7 By: 
8 Nicole A. Smith
9 Attorneys for Defendant
MONSTER CABLE
PRODUCTS, INC.
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PROOF OF SERVICE

I am over 18 years of age and not a party to the within action. My business address is 19 Upper Ragsdale Drive, Building, Suite 200, Monterey, California, 93940. On October 26, 2007, I served the following document:

PROOF OF SERVICE FOR PLAINTIFF'S SEPARATE CASE MANAGEMENT CONFERENCE STATEMENT AND [PROPOSED] ORDER

by placing a true copy thereof enclosed in a sealed envelope and served in the manner described below to the interested parties herein and addressed to:

Monster Daddy, LLC
P.O. Box 26855
Greenville, SC 29616

Scott Creasman, Esq.
Taylor, Busch, Slipakoff & Duma, LLP
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339

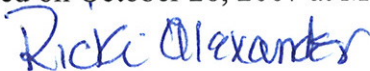
X **MAIL:** I caused such envelope(s) to be deposited into the United States Postal Service, with postage thereon fully prepaid, addressed to the addresses(s) designated.

_____ **HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the addressee(s) designated.

_____ **BY FACSIMILE:** By use of facsimile machine telephone number (831) 373-8302, I served a copy of the within document on the below parties at the facsimile number listed. The transmission was reported as complete and without error.

X **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 26, 2007 at Monterey, California.



Ricki S. Alexander

Exhibit A

1 Robert W. Payne (Bar No. 073901)
Nicole A. Smith (Bar No. 243823)
2 LaRiviere, Grubman & Payne, LLP
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6 Attorneys for Plaintiff
7 MONSTER CABLE PRODUCTS, INC.

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9 UNITED STATES DISTRICT COURT
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12 MONSTER CABLE PRODUCTS, INC., a)	Case No. C 3:07-cv-03272-SI
California corporation,)	
13 Plaintiff,)	SEPARATE CASE MANAGEMENT
14 vs.)	CONFERENCE STATEMENT AND
)	[PROPOSED] ORDER
15)	
16 MONSTER DADDY, LLC, a)	
corporation, and DOES ONE through)	
17 TWENTY inclusive,)	
Defendant.)	
18)	

19
20 UNDUE HARDSHIP STATEMENT

21
22 Plaintiff, Monster Cable Products, Inc., filed this Separate Case Management
23 Conference Statement as it has been unable to obtain consent to our proposed Joint Case
24 Management Conference Statement from Defendants. It is important to note that Defendants
25 have terminated their prior counsel and are working **without any attorneys**. In addition,
26 Monster Cable notes that neither an answer nor counterclaim have been filed in this case by
27 Defendants. No attorneys have appeared on behalf of the Defendants.
28

Both parties are communicating and the dates proposed in this Separate Case Management Conference Statement should give Defendants ample time to retain counsel and file the needed documents for litigation. In addition, both parties are in settlement discussions at this time.

SEPARATE CASE MANAGEMENT STATEMENT

Pursuant to Civil Local Rule 16-9 and the Standing Order for all judges of the Northern District of California, the Joint Case Management Statement below contains the contents required as of March 1, 2007.

1. Jurisdiction and Service:

- a) This action arises under 15 U.S.C. § 1114 et seq. and 28 U.S.C. §§ 1331 and 1338. Jurisdiction is therefore proper under 28 U.S.C. §§1331.
- b) This Court has personal jurisdiction over Defendants, which are located within and doing business in the State of California and this District. Venue is proper in this Court under 28 U.S.C. § 1391 (b) and (c).
- c) Service has been accepted by the opposing party.

2. Facts:

Facts Not In Dispute

On or about June 12, 2007, Defendant's former counsel sent a threatening ultimatum letter to Plaintiff's counsel, received in the Northern District of California, accusing Plaintiff of having fraudulently registered one or more "Monster" trademarks. The letter threatens to file suit or otherwise to proceed officially to seek cancellation of all such registrations. As a result of Defendant's accusations in the ultimatum letter of said date, Plaintiff filed for declaratory judgment on June 21, 2007.

Facts in Dispute

- a) Monster has not fraudulently sought to register any trademark and has diligently sought to correct existing registrations to accurately reflect correct

1 usage of the marks in question. Defendant has made such accusations in bad
2 faith.

3 b) There is an actual and continuing justiciable controversy within this district
4 between Plaintiff and Defendant as to Plaintiff's right to threaten or maintain
5 suit for cancellation of one or more of said aforementioned trademarks, and as
6 to the scope and viability of said registrations.

7 c) Whether Monster has suffered any damages as the result of any acts for which
8 Monster Daddy is legally liable.

9 The factual issues set forth above are not meant to be final or exhaustive, and
10 the parties reserve their rights to reformulate these issues or include other appropriate
11 issues as they develop or become known to the parties.

12 3. Legal Issues:

13 None of the material legal allegations of Monster Cable's complaint have
14 been denied by Monster Daddy because no answer has been filed. The counts
15 alleged by Monster are as follows: a) Violation of the Lanham Act within the
16 meaning of 15 U.S.C. §1114; and b) The case at bar is an "exceptional case" within
17 the meaning of 35 U.S.C. §285 and Monster Cable seeks costs and reasonable
18 attorney's fees incurred.

19 The legal issues set forth above are not meant to be final or exhaustive, and
20 the parties reserve their rights to reformulate these issues or include other appropriate
21 issues as they develop or become known to the parties.

22 4. Motions:

23 There are no motions currently on file.

24 5. Amendment of Pleadings:

25 There are no current plans for the amendment of pleadings. The proposed
26 deadline to amend pleadings is September 21, 2008.

27 //

12. Settlement and ADR:

Plaintiff would agree to private mediation and requests a deadline of May 31, 2008, to complete the mediation.

13. Consent to Magistrate Judge for All Purposes:

Parties do not consent to referral to a magistrate judge.

14. Other References:

This case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues:

Monster Cable is unaware of any issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial. Thus Plaintiff does not request any bifurcation of issues, claims, or defenses.

16. Expedited Schedule:

Monster Cable does believe that this is the type of case that need be handled on an expedited basis, but propose instead an early mediation date and the following proposed scheduling plan to aid in the expedited resolution of the case.

17. Scheduling:

Monster Cable proposes the following scheduling plan:

PROPOSED SCHEDULING PLAN

New parties/ amendments:	September 21, 2008
Completion of other non-expert discovery:	November 19, 2008
Joint disclosure of experts/reports:	December 19, 2008
Close of expert discovery:	January 18, 2009
Last day to file dispositive motions:	March 10, 2009
Pretrial conference:	April 25, 2009
Last day to complete mediation:	May 31, 2008

17. Trial:

Plaintiff, Monster Cable, has requested a jury trial and expects a trial of seven (7) days. Plaintiff suggests a trial date of May 5, 2009.

18. Disclosure of Non-party Interested Entities or Persons:

Neither party has filed a "Certification of Interested Entities or Persons" and Plaintiff has no knowledge of any other persons, firms partnerships, corporations (including parent corporations) or other entities that have either (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.

SIGNATURE AND CERTIFICATION BY PARTIES AND COUNSEL

Pursuant to Civil L.R. 16-8, each of the undersigned certifies that he or she has read the brochure entitled "Dispute Resolution Procedures in the Northern District of California," discussed the available dispute resolution options provided by the court and private entities and has considered whether this case might benefit from any of the available dispute resolution options.

Dated: October 26, 2007

LARIVIERE, GRUBMAN & PAYNE, LLP

By: 

Robert W. Payne
Nicole A. Smith
Attorneys for Defendant
MONSTER CABLE
PRODUCTS, INC.

IT IS SO ORDERED.

Dated: _____

Susan Illston
United States District Court Judge